

SENATE No. 847

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to economic stability for displaced service workers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Katherine M. Clark</i>	<i>Fifth Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Brian R. Mannel</i>	<i>2nd Barnstable</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>

<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Gale D. Candaras</i>	<i>First Hampden and Hampshire</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>

SENATE No. 847

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 847) of Sonia Chang-Diaz, Sal N. DiDomenico, James B. Eldridge, Kenneth J. Donnelly and other members of the General Court for legislation to economically stabilize displaced service workers. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to economic stability for displaced service workers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 150 of chapter 149, as appearing in the 2010 Official Edition, is
2 hereby amended by inserting after the word “159C”, in line 21, the following word:–“, 189”.

3 SECTION 4. Chapter 149 is hereby further amended by inserting after section 188 the
4 following sections:–

5 Section 189

6 (a) As used in this section, the following words, unless the context clearly requires
7 otherwise, shall have the following meanings:–

8 (A) “Awarding authority” means any person that awards or otherwise contracts
9 for property or non professional airport services performed within the Commonwealth including
10 contracted janitorial, security, maintenance and aviation services.

11 (B) “Successor Contractor” means any person or entity that employs, or that will
12 employ by the acquisition of a contract for service covered by this section, 10 or more
13 individuals engaged in property or aviation services, and who assumes a service contract where
14 essentially the same services were previously performed by another contractor in the same
15 location within the previous 30 days.

16 (C)“Predecessor Contractor” means any person or entity that performs a contract
17 for property or aviation services prior to the commencement of the successor contractor.

18 (D)“Service Employee” means any employee performing services including but
19 not limited to janitorial, maintenance, aviation and security services who works non-seasonally
20 for at least 8 hours per week. This does not include a person who is a managerial, supervisory,
21 or confidential employee, including those employees who would be so defined under the federal
22 Fair Labor Standards Act.

23 (E) “Service Contract” means any contract that has the principal purpose of
24 providing janitorial, maintenance, security, aviation or other services through the use of service
25 employees.

26 (b) Where an awarding authority uses a service contract for the purpose defined in
27 Section 189(a), subsection (E), a successor contractor shall retain, for a minimum 90-day
28 transition period, service employees who have been employed by a predecessor contractor for the
29 preceding four months or longer.

30 The successor contractor shall make a written offer of employment to each employee not
31 less than 10 days prior to the commencement of service;

32 The employee must answer the offer not more than 10 days from the date the offer is
33 made;

34 If the full complement of the predecessor’s employees is not retained by the successor
35 because the successor requires fewer employees to perform the service contract, the remaining
36 employees of the predecessor contractor will be placed on a preferential hiring list and will have
37 the right of first refusal for any new open position during the transition period.

38 The employer will have the right to discharge the employee during the transition period
39 for cause which shall be based on work performance or conduct, but in no case will the discharge
40 be arbitrary or capricious.

41 (c) The awarding authority shall have the obligation, in accordance with the requirements
42 above, to notify a predecessor contractor within 3 days of the granting of a new award and
43 awardee. Predecessor contractor will have the obligation to supply successor contractor and
44 awarding authority with the employee names and corresponding dates of hire and job
45 classification. Upon commencement of service, the successor contractor shall provide to the
46 awarding authority a list of all employees providing service at the site or sites pertaining to the
47 new contract for service with the awarding authority, indicating which employees were
48 employed by the predecessor and which were not.

49 Failures or omissions in contravention of subsection 189(c) will result in a fine to either
50 awarding authority, predecessor contractor, or both of \$500.00 per employee prejudiced, to be
51 paid to the Massachusetts Department of Unemployment Assistance.